| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/618,089 | 07/11/2003 | Peter A. Panec | ODVFP010 | 3811 |

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| EXAMINER |
|---|
| OSMAN, RAMY M |

| ART UNIT | PAPER NUMBER |
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| 2157 | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *11 July 2007*.

2a)☒ This action is **FINAL**.        2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-29* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11 July 2007* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

# DETAILED ACTION

## *Status of Claims*

1.      This action is responsive to application filed on July 11, 2007, where applicant amended

claims 1,2,7,8,10,27-29. Claims 1-29 are pending.


## *Response to Arguments*

2.      Applicant's arguments filed 7/11/2007 have been fully considered but they are not

persuasive.

3.      Applicant argues that Sugawara doesn't send alert messages to recipient.

*In reply,* ¶ 130 of Sugawara states that the management information, which is the alert

message, can also be displayed on unit 1-2 which is the intended recipient.

4.      Claims 1 and 2 remain rejected under 101, see rejection below.

## *Claim Rejections - 35 USC § 101*

4.      35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or
> composition of matter, or any new and useful improvement thereof, may obtain a patent
> therefor, subject to the conditions and requirements of this title.

5.      Claims 1 & 2 rejected under 35 U.S.C. 101 because the claimed invention is directed to

non-statutory subject matter. The claim states that "instructions to detect...", "instructions to

coordinate..." etc.. However, instructions in-and-of themselves have no ability to perform the

claimed actions of "detect", "coordinate", etc. The instructions must be embodied where they

are executed by some type of processing system, and where it is the processing system that

performs the actions of "detect", "coordinate", etc.

The above-mentioned requirements are necessary for the claim to be 101-compliant and

for the claim to produce a useful, concrete and tangible result. **(see MPEP 2106 Section IV. C.)**


### *Claim Rejections - 35 USC § 102*

5.      The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6.      **Claims 1-29 rejected under 35 U.S.C. 102(b) as being anticipated by Sugawara et al**

**(US Patent No 2002/0019848).**

7.      In reference to claim 1, Sugawara teaches a computer-readable medium, comprising:

instructions to detect an error condition during messaging between a message sender and

a message recipient (¶2);

instructions to coordinate said error condition with a stage of said messaging (¶111, 127-

130);

instructions to generate an alert message indicating said error condition and said stage of

said messaging (¶111);  and

instructions to transmit said alert message to said message recipient (¶127-130).

8.      In reference to claim 4, Sugawara teaches the computer-readable medium of claim 1,

wherein said messaging occurs via a public network (¶ 2).

9.      In reference to claim 5, Sugawara teaches the computer-readable medium of claim 1,

wherein said instructions to detect said error condition include: instructions to detect said error

condition in connection with processing of a message generated by said message sender (¶ 127-130).

10.     In reference to claim 6, Sugawara teaches the computer-readable medium of claim 5, wherein said instructions to coordinate said error condition with said stage of said messaging include: instructions to coordinate said error condition with one of posting of said message by said message sender, routing of said message to said message recipient, delivery of said message to said message recipient, and response to said message by said message recipient (¶ 127-130 and ¶ 215-219).

11.     In reference to claim 7, Sugawara teaches the computer-readable medium of claim 1, wherein said instructions to transmit said alert message include: instructions to transmit said alert message to said message recipient even when said message generated by said message sender is not delivered to said message recipient (¶ 127-130).

12.     In reference to claim 8, Sugawara teaches the computer-readable medium of claim 1, wherein said instructions to transmit said alert message include: instructions to transmit said alert message to said at least one of said message sender and said message recipient via a public network (¶2).

13.     In reference to claim 2, Sugawara teaches a computer-readable medium, comprising:

        instructions to define a plurality of event categories, each event category of said plurality of event categories being associated with a different stage of messaging between a message sender and a message recipient, said plurality of event categories including a first event category associated with a first stage of said messaging (¶ 200-203,208);

        instructions to detect a first event during said first stage of said messaging (¶208);

instructions to coordinate said first event with said first event category; and instructions

to generate a first alert message indicating said first event and said first event category (¶208);

and

instructions to transmit said first alert message to said message recipient (¶ 127-130).

14.     In reference to claim 9, Sugawara teaches the computer-readable medium of claim 2,

wherein said messaging occurs via a public network (¶ 2).

15.     In reference to claim 10, Sugawara teaches the computer-readable medium of claim 2,

further comprising: instructions to transmit said first alert message to at least one of said message

sender and said message recipient (¶ 200-203,208).

16.     In reference to claim 11, Sugawara teaches the computer-readable medium of claim 10,

wherein said instructions to transmit said first alert message include: instructions to transmit said

first alert message to said at least one of said message sender and said message recipient via a

public network (¶ 2).

17.     In reference to claim 12, Sugawara teaches the computer-readable medium of claim 2,

further comprising: instructions to transmit said first alert message to a monitoring application

program (¶ 200-203,208).

18.     In reference to claim 13, Sugawara teaches the computer-readable medium of claim 12,

wherein said instructions to transmit said first alert message include: instructions to transmit said

first alert message to said monitoring application program via a public network (¶ 2).

19.     In reference to claim 14, Sugawara teaches the computer-readable medium of claim 2,

further comprising: instructions to detect a second event during said first stage of said

messaging; and instructions to coordinate said second event with said first event category (¶ 200-203,208).

20.     In reference to claim 15, Sugawara teaches the computer-readable medium of claim 14, wherein said first event and said second event correspond to different error conditions during said first stage of said messaging (¶ 200-203,208).

21.     In reference to claim 16, Sugawara teaches the computer-readable medium of claim 14, wherein said instructions to generate said first alert message include: instructions to generate said first alert message indicating said first event, said second event, and said first event category (¶ 200-203,208).

22.     In reference to claim 17, Sugawara teaches the computer-readable medium of claim 14, further comprising: instructions to generate a second alert message indicating said second event and said first event category (¶ 200-203,208).

23.     In reference to claim 18, Sugawara teaches the computer-readable medium of claim 2, wherein said plurality of event categories includes a second event category associated with a second stage of said messaging, the computer-readable medium further comprising: instructions to detect a second event during said second stage of said messaging; and instructions to coordinate said second event with said second event category (¶ 200-203,208).

24.     In reference to claim 19, Sugawara teaches the computer-readable medium of claim 18, wherein said first event corresponds to a first error condition during said first stage of said messaging, and said second event corresponds to a second error condition during said second stage of said messaging (¶ 200-203,208).

25.    In reference to claim 20, Sugawara teaches the computer-readable medium of claim 18, wherein said instructions to generate said first alert message include: instructions to generate said first alert message indicating said first event, said second event, said first event category, and said second event category (¶ 200-203,208).

26.    In reference to claim 21, Sugawara teaches the computer-readable medium of claim 18, further comprising: instructions to generate a second alert message indicating said second event and said second event category (¶ 200-203,208).

27.    In reference to claims 3-26 and 27-29, theses are method claims that correspond to the computer readable medium claims of 1,4-8. Therefore claims 3-26 and claims 27-29 are rejected based upon the same rationale as the above rejections.

### *Conclusion*

28.    Applicant is advised that the above specified citations of the relied upon prior art are only representative of the teachings of the prior art, and that any other supportive sections within the entirety of the reference (including any figures, incorporation by references, claims and priority documents) is implied as being applied to teach the scope of the claims.

29.    **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action.  In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period
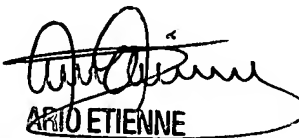
will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Ramy M. Osman whose telephone number is (571) 272-4008.

The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RMO
September 15, 2007

ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
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